



STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF OPTOMETRISTS

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :

Administrative Action

RUSSELL SINOWAY :
License No 02255 :

FINAL ORDER :
OF DISCIPLINE :

TO PRACTICE OPTOMETRY :
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Optometrists upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made.

FINDINGS OF FACT

1. Respondent is an optometrist in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On the 30th day of June, 1999, the Board of Optometrists initiated a random audit of renewal applications for the 1998-1999 period, asking licensees to submit proof with regard to the satisfaction of continuing education requirements for the biennial renewal period, i.e. fifty (50) credit approval hours, for licensees holding an active license to practice the profession of optometry.

3. Respondent submitted proof of having completed 17 credit-hours of continuing education, which is insufficiemnt to satisfy the continuing education requirement because it falls short of the

requisite 50 (fifty) approved credit hours pursuant to N.J.S.A. 45:12-9.3 and N.J.A.C. 13:38-4.5. Respondent's original submission was attached as Exhibit A.

4. A Provisional Order of Discipline was entered by this Board on November 22, 1999 and served upon respondent on November 23, 1999.

5. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

CONCLUSIONS OF LAW

1. Respondent has not satisfied the requirements of N.J.S.A. 45:12-9.3 with regard to completion of the appropriate number of approved continuing education credit hours within the statutory time frame.

2. Respondent is subject to sanctions pursuant to N.J.S.A. 45:1-21(h), failure to comply with the provision of an act or regulation administered by the Board, which constitutes grounds for suspension or revocation of any certificate, registration or license, and grounds for sanction pursuant to N.J.S.A. 45:1-25.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending respondent's license to practice Optometry in the State of New Jersey was entered on November 22, 1999 and a copy served on respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons

why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor. The respondent submitted a written response for Board consideration.

Respondent submitted correspondence dated December 15, 1999 explaining that he attended a course on Ocular Therapy for the Optometric Practitioner at the Pennsylvania College of Optometry for continuing education credits for one hundred hours which was presented from April through July 1995. Respondent also submitted two certificates of seven hours of attendance each at the 45th annual Kraskin Invitational Skeffington Symposium on January 22 and 23, 2000. Thus as of January 23, 2000 respondent completed the 17.5 credit deficient and satisfied the 50 credits for the 1997-1999 biennial year.

Based upon the reviewed submission, the Board determined that the respondent satisfied the 17.5 credits which were short as explained in the Findings of Fact or Conclusions of Law set forth in the Provisional Order by January 23, 2000. Thus, the Board determined that the respondent's license would not be suspended or revoked. However, the Board recognized that respondent failed to comply with the statutory provision obligating the holder of active license to complete the required continuing education credits during the period preceding the established renewal date pursuant to N.J.S.A. 45:12-9.3, which in this case was May 30, 1999.

Respondent's compliance with the total required credits occurred eight months after the statutory deadline.

Respondent's submissions were reviewed by the Board, and the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was persuaded that the submitted materials satisfied the outstanding credits as recited in the Findings of Fact or Conclusions of Law. Although respondent was able to satisfy the remaining outstanding credits, he did so eight months after the allotted time period. The credits for continuing education must be obtained biennially by each holder of an active license during the period

preceding the established license renewal date as required by N.J.S.A. 45:12-9.3. Thus, respondent must have obtained his 50 credits by May 30, 1999. The Board determined that the respondent failed to submit proof of additional credits on a timely basis as the proofs presented indicated that respondent did not satisfy the total amount of continuing education credits until January 23, 2000. Accordingly, respondent's satisfaction of the credits was untimely as it transpired long after the May 30, 1999 registration date.

ACCORDINGLY, IT IS on this 15th day of March February 2000,
ORDERED that:

1. Respondent's proofs of additional credits are accepted by the Board as proof of satisfaction of the 50 credits required in continuing education for the 1997-1999 biennial registration. The credits submitted as a result of the Provisional Order are **NOT** to be used to renew respondent's license for the 1999-2001 renewal period. However, the credits submitted were obtained after the May 30, 1999 date and are considered a late submission. Thus, the Board will not suspend or revoke the license of the respondent.

2. Respondent shall pay a civil penalty of five hundred dollars (\$500.00) pursuant to N.J.S.A. 45:1-25, for violation of N.J.S.A. 45:12-9.3, N.J.A.C. 13:38-4.5 and N.J.S.A. 45:1-21(h), by means of a check or money order, payable to the New Jersey Board of Optometrists. Such payment is to be sent to the Board at 124 Halsey Street, Sixth Floor, Newark, New Jersey 07102, no later than 30 days from the date of receipt of this order.

NEW JERSEY STATE BOARD OF Optometry

By 

Barry Schneider,
Board President

Dated:

3/15/00